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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/617,946	07/11/2003	Richard F. Gladney	SMCY-P01-085	4482
28120	7590	06/30/2004	EXAMINER	
ROPES & GRAY LLP ONE INTERNATIONAL PLACE BOSTON, MA 02110-2624			SANTOS, ROBERT G	
			ART UNIT	PAPER NUMBER
			3673	

DATE MAILED: 06/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<div style="text-align: center;">    <b>Office Action Summary</b> </div>	<b>Application No.</b> 10/617,946	<b>Applicant(s)</b> GLADNEY, RICHARD F. 	
	<b>Examiner</b> Robert G. Santos	<b>Art Unit</b> 3673	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 7/11/03, 12/03/03, and on 12/08/03.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-44 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-44 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>12032003</u> | 6) <input type="checkbox"/> Other: _____  |

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## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-4, 6-10, 13, 22, 23, 34-36, and 39-41 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Broyles '729 (note especially Figures 1-4; column 2, lines 25-39; and column 3, lines 12-19 & 58-69).
3. Claims 1-3, 5, 7-9, 12-15, 17, 24, 25, 29, 30, 34-36, and 41-43 are rejected under 35 U.S.C. 102(b) as being anticipated by Propst '952. As concerns claims 1, 24, 25, 42, and 43, Propst '952 shows the claimed limitations of a mattress assembly constructed substantially of plastic material, comprising: a mattress foundation (C) comprising a generally planar and essentially rigid top surface (6); at least one essentially rigid sidewall (7); a frame assembly comprising a plurality of ground support members (side and end portions of W) supporting the foundation and depending downward from the lower edge of the at least one sidewall, and at least one structurally reinforcing brace (21) disposed along the lower side of the top surface, connecting opposing portions of the at least one sidewall and wherein the at least one brace is integrally formed with the foundation. As concerns claims 2, 3, and 5, the reference is considered to show conditions wherein each of the ground support members may be removably

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or irremovably attached to the foundation and wherein at least one of the ground support members is attached to the foundation by a mating configuration or is integrally formed with the foundation in Figure 1 and in column 5, lines 9-15). With regards to claims 7-9, the reference also discloses conditions wherein the perimeter of the top surface is either a square or rectangle and wherein the foundation comprises four sidewalls (see Figure 1). As concerns claims 12 and 13, the reference is considered to show conditions wherein the top surface is ribbed, having air spaced (9, 10) formed therein, and wherein the top surface has at least one region of continuous plastic spanning a substantially central portion of the top surface, tying together opposing portions of the at least one sidewall in Figures 1 & 5. With regards to claims 14 and 15, the reference also discloses conditions wherein the at least one sidewall is corrugated (see Figure 1) and comprises non-planar elements (9, 10) that increase structural resistance to undesirable deflections from load weights. As concerns claim 17, the reference is considered to show a condition wherein the upper side of the top surface further includes a first mating structure (5), and an edge region of the at least one sidewall further includes a second mating structure (5) adapted to engage with the first mating structure (through elements 21-23 & S). With regards to claims 29 and 30, the reference discloses conditions wherein the at least one brace includes a non-planar reinforcing structure (S) and is ribbed, having air spaces (22 & 23) formed therein (see Figures 1-4). As concerns claims 34-36, the reference is considered to show conditions wherein the plastic material comprises plastic constructed by a molding technique and wherein the foundation comprises extruded and assembled plastic pieces in Figure 1 and in column 3, lines 8-14 & 53-60. With regards to claim 41, the reference discloses a condition wherein the plastic material is formed from polystyrene (see column 3, lines 8-14).

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4. Claims 42-44 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Mauro et al. '775 (note especially Figures 1, 2, 5, & 6; column 4, lines 14-28 & 42-67; column 5, lines 1-24).

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Broyles '729. Broyles '729 does not specifically disclose a condition wherein the perimeter of the top surface has a shape selected from the group consisting of a circle, an ellipse, and a heart. It would have been obvious at the time the invention was made to provide the mattress foundation of Broyles '729 with a top surface having a perimeter formed in the shape of a circle, an ellipse, or a heart since such a modification would have been generally recognized as being within the level of ordinary skill in the art.

7. Claims 16, 24-28, 31-33, 37, and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Broyles '729 in view of Mauro et al. '775. As concerns claims 16, 24-28, 31, 32, 37, and 38, Broyles '729 does not specifically disclose the use of at least one truss structure oriented perpendicularly to the lower side of the top surface and adjoining opposing portions of

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the at least one sidewall; at least one brace connecting opposing portions of the at least one sidewall wherein the at least one brace is integrally formed with the foundation, further comprising at least one pair of grooves on opposing portions of the at least one sidewall, wherein each of the at least one pair of grooves latchingly receives one end of the at least one brace and is shaped to prevent outward deflection by the opposing portions of the at least one sidewall; or at least one metal structural member covered by plastic. Mauro et al. '775 provide the basic teaching of a mattress foundation (10) provided with at least one truss structure (42) oriented perpendicularly to the lower side (21) of the top surface (20) thereof and adjoining opposing portions (30, 34) of at least one sidewall thereof; at least one brace (46-48) connecting opposing portions (30, 34) of the at least one sidewall wherein the at least one brace is integrally formed with the foundation, further comprising at least one pair of grooves (50-55) on opposing portions of the at least one sidewall, wherein each of the at least one pair of grooves latchingly receives one end of the at least one brace and is shaped to prevent outward deflection by the opposing portions of the at least one sidewall; or at least one metal structural member (60) covered by plastic (as shown in Figure 6). The skilled artisan would have found it obvious at the time the invention was made to provide the mattress foundation of Broyles '729 with at least one truss structure oriented perpendicularly to the lower side of the top surface and adjoining opposing portions of the at least one sidewall; at least one brace connecting opposing portions of the at least one sidewall wherein the at least one brace is integrally formed with the foundation, further comprising at least one pair of grooves on opposing portions of the at least one sidewall, wherein each of the at least one pair of grooves latchingly receives one end of the at least one brace and is shaped to prevent outward deflection by the opposing portions of the at least one sidewall; or at

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least one metal structural member covered by plastic in order to impart additional strength and stability to the foundation, thereby ensuring proper support for a user positioned thereon.

8. Claims 18-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Broyles '729 in view of Saputo '946. Broyles '729 does not specifically disclose the use of a headboard tangentially extending vertically along one end of the foundation and removably attached to the foundation. Saputo '946 provides the basic teaching of a plastic mattress foundation (10) provided with brackets (59, 60) for securing a headboard thereto. The skilled artisan would have found it obvious at the time the invention was made to provide the mattress foundation of Broyles '729 with a headboard tangentially extending vertically along one end of the foundation and removably attached to the foundation in order to impart a more finished appearance thereto. As concerns claim 20, Broyles '729, as modified by Saputo '946, is considered to show a condition wherein the headboard is integrally formed with the foundation, since it has been held that the term "integral" is sufficiently broad to embrace constructions united by such means as fastening and welding. *In re Hotte*, 177 USPQ 326, 328 (CCPA 1973).

9. Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Broyles '729 in view of Saputo '946 as applied to claim 18 above, and further in view of Bellows et al. '191. Broyles '729, as modified by Saputo '946, does not specifically disclose a condition wherein the headboard is constructed substantially of plastic material. Bellows et al. '191 provide the basic teaching of a plastic bed frame (10) including a headboard (16) and constructed from a plastic material (see Bellows et al. '191, column 3, lines 37-39). The skilled artisan would have found it

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obvious at the time the invention was made to provide the mattress foundation of Broyles '729, as modified by Saputo '946, with a headboard constructed substantially of plastic material since such a headboard is generally well known as being economical and lightweight as taught by Bellows et al. '191, thereby also facilitating attachment to a mattress foundation.

### *Conclusion*

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Gladney '897, Gaboury et al. '284, Bellows et al. '045, Gaboury et al. '462, Rupe '423, Nowell '371, Dennis '288, Gelbart '907, and 'Adler '380.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert G. Santos whose telephone number is (703) 308-7469. The examiner can normally be reached on Tu-Fr and first Mondays, 10:30 a.m. to 8:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather C. Shackelford can be reached on (703) 308-2978. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

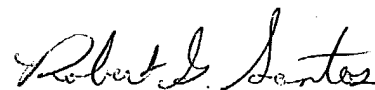
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A handwritten signature in cursive script, reading "Robert G. Santos".

Robert G. Santos  
Primary Examiner  
Art Unit 3673

R.S.

June 22, 2004